



**ARIZONA SUPREME COURT
ORAL ARGUMENT CASE SUMMARY**



**STATE OF ARIZONA v. ARMANDO PENA, JR.
CR-13-0377-PR**

PARTIES:

Petitioner/Cross-Respondent: The State of Arizona

Respondent/Cross-Petitioner: Armando Pena, Jr.

FACTS:

Armando Pena, Jr. repeatedly assaulted victim F.M., partly with a knife or sharp object. She suffered injuries on her leg, hand, and abdomen. The leg injury was a three-to-four inch laceration into the fatty tissue and muscle. The hand injury was a three-inch laceration covering her entire left palm, cutting all the skin layers and reaching the muscle. The abdominal injury was a two centimeter puncture, exposing some fatty tissue.

The state charged Pena with one count each of kidnapping and aggravated assault with a deadly weapon and three counts of aggravated assault causing temporary and substantial disfigurement. After trial, the jury convicted him as charged. The court sentenced him to concurrent prison terms, and Pena appealed.

After analyzing whether the evidence was sufficient to convict Pena of the charges, the court of appeals affirmed in part, reversed in part, and remanded. The court of appeals evaluated the evidence of harm to each of F.M.'s injured body parts to determine whether substantial disfigurement had occurred for purposes of conviction for aggravated assault causing temporary and substantial disfigurement. The court concluded (1) the injury to F.M.'s hand amounted to substantial disfigurement; (2) the evidence did not show the wound to F.M.'s abdomen to be significant enough to support conviction for aggravated assault causing temporary and substantial disfigurement; and (3) the evidence of the wound to F.M.'s abdomen was only sufficient to support conviction on ordinary assault as a lesser-included offense of aggravated assault. Therefore, it affirmed the convictions on two of the three counts of aggravated assault causing temporary and substantial disfigurement.

ISSUES:

Petition for Review:

1. Are injuries less disfiguring when covered by clothing in public?
2. Does "substantial disfigurement" include as a matter of law a durational

requirement independent of “temporary”?

Cross-Petition for Review:

Did the Court of Appeals err by ignoring the qualitative nature of the injury to the victim’s hand in determining whether there was sufficient evidence that it constituted “temporary but substantial disfigurement” for purposes of Mr. Pena’s conviction in Count 4 for aggravated assault pursuant to A.R.S. § 13-1204(A)(3)?

DEFINITIONS:

A.R.S. § 13-1204: Section of the Arizona Revised Statutes that classifies and defines the criminal offense of aggravated assault. Subsection 13-1204(A)(3) provides that a person commits aggravated assault “[i]f the person commits the assault by any means of force that causes temporary but substantial disfigurement, temporary but substantial loss or impairment of any body organ or part or a fracture of any body part.”

Lesser-included offense: Crime that contains some, but not all, of the elements of a more serious offense. A lesser-included offense is a less serious offense than the greater offense.

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